

ORIGINAL



FILED
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FOR MULTNOMAH COUNTY
06285

IN THE CIRCUIT COURT OF THE STATE OF OREGON
IN AND FOR THE COUNTY OF MULTNOMAH

JESSICA N. MORROW; and
KIMBERLY FERRARA,

Plaintiffs,

vs.

SHORENSTEIN REALTY SERVICES,
L.P., a Delaware Limited Partnership,

Defendant.

Case No. **1004-06285**

**COMPLAINT AND DEMAND FOR
JURY TRIAL (Personal Injury, Negligence)**

Damages Claimed Over \$10,000

**Claim Not Subject to Mandatory
Arbitration**

Total Damages Claimed: \$2,914,439.00

1.

This is a personal injury case against the owner of real property that failed to safely maintain the condition of trees adjacent to a roadway. As a result of defendant's negligent conduct, a tree fell on the truck in which plaintiffs were riding, causing severe and permanent personal injuries as set forth more fully below.

2.

Plaintiffs are, and at all material times were, residents of Oregon.

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EXHIBIT 1
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3.

Defendant Shorenstein Realty Services, L.P. is a duly authorized Delaware limited partnership, authorized to do business, and doing substantial and sustained business, in Multnomah County. Defendant Shorenstein Realty Services, L.P. holds and maintains, buys, sells, and leases real estate holdings throughout Oregon.

4.

On or about January 17, 2009, plaintiffs were passengers in a pickup truck as it passed by the intersection of Meadows Road and Kruse Way in or near Lake Oswego, Oregon.

5.

At the same time and place, a diseased Douglas Fir tree owned, maintained, and located on real estate owned by defendant Shorenstein blew down in moderate breeze and landed squarely on the top of the pickup truck, destroying the truck in which plaintiffs were riding and pinning down its occupants, including plaintiffs. The truck was knocked off the roadway and came to rest in the wooded area near the intersection in question. Plaintiffs were both trapped inside the truck and both suffered severe and permanent physical and emotional injuries as detailed below.

6.

The personal injuries in question, and plaintiffs' economic and non-economic damages, were caused by the negligence of the defendant in one or more of the following particulars:

(a) In failing to have or develop a reasonable plan for assessing the safety of its forest land and trees when defendant knew, or in the exercise of reasonable care should have known, of the risk of harm to the public from hazardous trees on defendant's land.

(b) In failing to follow a reasonable plan for assessing the safety of its forest land and trees when defendant knew, or in the exercise of reasonable care should have known, of the risk of harm to the public from hazardous trees on defendant's land.

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EXHIBIT

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(c) In failing to remove trees that posed an unreasonable risk of harm to the public when defendant knew, or in the exercise of reasonable care should have known, of the risk of harm to the public from hazardous trees on defendant's land.

(d) In failing to treat the trees adjacent to public roadways for [disease], including the tree that struck plaintiffs, when defendant knew, or in the exercise of reasonable care should have known, of the risk of harm to the public from hazardous trees on defendant's land.

(e) In failing to warn the public, including plaintiffs, of the hazard posed by its forest land and trees, when defendant knew, or in the exercise of reasonable care should have known, of the risk of harm to the public from hazardous trees on defendant's land.

(f) In failing to prevent or treat the disease of Laminated Root Rot when defendant knew, or in the exercise of reasonable care should have known, that this particular Douglas Fir tree and others near it were diseased and creating a hazard to passers-by, including plaintiffs.

CLAIM FOR RELIEF

Jessica Morrow

7.

As a result of defendant's negligence, plaintiff Jessica Morrow was nearly killed while in the cab of the truck and properly wearing seatbelts. She required resuscitation at the scene.

After emergency evacuation into the trauma center at Oregon Health Science University she was diagnosed with multiple injuries, including, a fractured spine that was reconstructed surgically at four vertebral levels, a collapsed lung, as well as cuts to her face, ear, abrasions, and bruising.

As a result of the seriousness of the accident, Ms. Morrow has suffered from the effects of Post-Traumatic Stress Disorder. Ms. Morrow has incurred objectively verifiable economic loss in the form of medical, ambulance, X-ray, diagnostic, surgical, pharmacy, rehabilitative,

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3
6

1 therapeutic, and counseling medical bills in the amount of \$237,439.00 to date. Plaintiff Jessica
 2 Morrow's injuries are permanent, progressive, and disabling. The expenses for her future
 3 medical care are continuing and ongoing, as is her medical care. Such expenses will be updated
 4 at or near the time of trial.

5 8.

6 Ms. Morrow also suffered loss of her wages and benefits and a reduction or loss of
 7 earning capacity. At the time of this injury, Ms. Morrow was earning \$23.00 per hour in full
 8 time work plus benefits and has further suffered further economic losses in the form of lost
 9 wages, lost benefits and lost earning capacity in the amount of \$70,000.00 to date, and said
 10 amount is continuing and ongoing. The economic damages set forth in this portion of the
 11 Complaint will be updated and amended at the time of trial to reflect information that develops
 12 after the date of filing.

13 9.

14 As a further result of defendant's negligence, Ms. Morrow has suffered, and will continue
 15 to suffer in the future, a significant array of non-economic damages such as pain, anxiety,
 16 Post-Traumatic Stress Disorder, loss of enjoyment of life, hyper-vigilance while traveling,
 17 depression, weight gain, loss of stamina, restricted mobility, and increased fatigue. Plaintiff's
 18 non-economic damages are to be considered by the jury and are alleged here at an amount not to
 19 exceed \$1,500,000.00.

20 **CLAIM FOR RELIEF**

21 **Kimberly Ferrara**

22 10.

23 As a result of defendant's negligence, plaintiff Kimberly Ferrara also sustained a
 24 crushing injury while riding as a passenger in the cab of the truck and appropriately seat belted.
 25 She too had to be extricated from the car. Ms. Ferrara's thoracic vertebrae was fractured and this
 26 has left her weak and significantly weakened by ongoing and permanent pain. Ms. Ferrara

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1 sustained a severe strain of the muscles and ligaments, bone and tendon of her right shoulder. As
 2 a further result of defendant's negligence, plaintiff Ferrara incurred a ambulance, emergency
 3 medical, surgical, diagnostic, pharmacy, medical, medical hardware, and related bills, to her
 4 economic damage in the amount of \$87,000.00 to date. Such expenses are ongoing and will be
 5 updated at or near the time of trial.

6 11.

7 Plaintiff Ferrara also suffered a loss of income and earning capacity that has resulted in
 8 economic damage in the amount of \$20,000.00 to date, and such economic injury is ongoing in
 9 the future. Ms. Ferrara's wage loss in the future will be determined before the time of trial.
 10 These numbers will be updated prior to trial.

11 12.

12 As a further result of defendant's negligence, Ms. Ferrara has suffered, and will continue
 13 to suffer in the future a significant array of non-economic damages. During the time plaintiff
 14 Ferrara was being extricated and transported to the hospital, and up to some point in the hospital,
 15 she thought the impact of the tree had killed Jessica Morrow. Ms. Ferrara has suffered, and will
 16 continue to suffer, non-economic damages such as pain, anxiety, Post-Traumatic Stress Disorder,
 17 loss of enjoyment of life, hyper-vigilance while traveling, depression, weight gain, loss of
 18 stamina and increased fatigue. Plaintiff's non-economic damages are to be considered by the
 19 jury and are alleged here at an amount not to exceed \$1,000,000.00.

20
 21
 22 WHEREFORE, plaintiffs claim for relief against defendant as follows:

- 23 a. For Jessica Morrow, \$307,439.00 in economic damages and
 24 \$1,500,000.00 in non-economic damages;
 25 b. For Kimberly Ferrara, \$107,000.00 in economic damages and
 26 \$1,000,000.00 in non-economic damages;

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- 1 c. For plaintiffs' costs and disbursements incurred herein; and
2 d. For such other relief as the court deems just.
3

4 DATED this 29th day of April, 2010.

5 Respectfully submitted,

6 DAVID PAUL, PC

7 By: 
8

9 David Paul, OSB No. 86260
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15 E-Mail: dp@davidpaullaw.com
16 Attorneys for Plaintiffs

17 Plaintiffs demand a jury trial.

18 DATED this 29th day of April, 2010.

19 DAVID PAUL, PC

20 By: 
21

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Attorneys for Plaintiffs and Trial Attorney

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing **SHORENSTEIN REALTY SERVICES, L.P.'S FIRST AMENDED THIRD-PARTY COMPLAINT** on the following attorneys on the date noted below via the following method:

David Paul
David Paul PC
520 SW 6th Ave., Ste 920
Portland, OR 97204

Of Attorneys for Plaintiffs

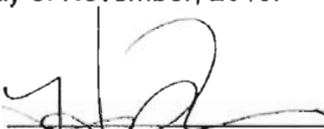
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*Of Attorneys for Brickman Group
Ltd, LLC*

Method: ☒ US Mail, postage prepaid
☐ Facsimile
☐ Hand Delivery
☐ Overnight Delivery

Dated this 22nd day of November, 2010.

BY:


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